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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JENNIFER DE LEON,	) Case No. **'11 CV1549 JAH WMC**
	)
Plaintiff,	) **COMPLAINT FOR VIOLATION**
	) **OF FEDERAL FAIR DEBT**
vs.	) **COLLECTION PRACTICES ACT**
	) **AND ROSENTHAL FAIR DEBT**
BERTRAND MANAGEMENT	) **COLLECTION PRACTICES ACT**
GROUP, LLC,	)
	)
Defendant.	)
_____	)

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq*. (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2.   Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

III. PARTIES

3.   Plaintiff, Jennifer De Leon ("Plaintiff"), is a natural person residing in San Diego county in the state of California, and is a "consumer" as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ Code §1788.2(h).

4.   At all relevant times herein, Defendant, Bertrand Management Group, LLC, ("Defendant") was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).

IV. FACTUAL ALLEGATIONS

5.   At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

6.   On average, Plaintiff received from Defendant more than two collections calls per day, more than ten collections calls per week, and more than

twenty collections calls per month, in connection with an attempt to collect an alleged debt.

7.   On at least one occasion, an employee of Defendant contacted Plaintiff and falsely represented that he worked for the County Clerk's Office, claiming to be a process server with documents to be served on Plaintiff.

8.   On at least one occasion, Defendant has threatened further legal action against Plaintiff for failure to pay an alleged debt.

9.   Defendant threatened to take an action that was not actually taken, including but not limited to, threatening to take further legal action against Plaintiff, where no such action has been instituted to date.

10.   On at least one occasion, Defendant contacted Plaintiff's neighbor, a third party to this action, for purposes beyond obtaining Plaintiff's location information.

11.   On at least one occasion, Defendant contacted Plaintiff's neighbor, a third party to this action, disclosing to said third party the existence of an alleged debt owed by Plaintiff and the identity of Defendant without being expressly requested.

12.   Defendant's conduct violated the FDCPA and the RFDCPA in multiple ways, including but not limited to:

    a) Falsely representing or implying that nonpayment of Plaintiff's debt would result in the seizure, garnishment,

attachment, or sale of Plaintiff's property or wages, where such action is not lawful or Defendant did not intend to take such action (§1692e(4));

b) Threatening to take an action against Plaintiff that cannot be legally taken or that was not actually intended to be taken (§1692e(5));

c) Falsely representing that a legal proceeding has been, is about to be, or will be instituted unless payment of a consumer debt is made (Cal Civ Code §1788.13(j));

d) Threatening to take an action against Plaintiff that is prohibited by § 1788 of the California Civil Code (Cal Civ Code §1788.10(f));

e) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (§1692d));

f) Using unfair or unconscionable means against Plaintiff in connection with an attempt to collect a debt (§1692f));

g) Threatening Plaintiff that nonpayment of Plaintiff's debt may result in the arrest of Plaintiff or the seizure, garnishment, attachment or sale of any property or the garnishment or attachment of wages of Plaintiff, where such action was not in fact contemplated by the debt collector and permitted by the law (Cal Civ Code §1788.10(e));

h) Failing to notify Plaintiff during the initial communication with Plaintiff that the communication was an attempt to collect a debt and any information obtained would be used for that purpose (§1692e(11));

i) Failing to notify Plaintiff during each collection contact that the communication was from a debt collector (§1692e(11));

j) Failing to provide Plaintiff with the notices required by 15 USC § 1692g, either in the initial communication with Plaintiff, or in writing within 5 days thereof (§1692g(a));

k) Falsely representing that an individual is an attorney (§1692e(3));

l) Falsely representing that any person is an attorney or counselor at law (Cal Civ Code §1788.13(b));

m) In connection with an attempt to collect an alleged debt from Plaintiff, contacting a third party for purposes other than obtaining location information (§1692b & §1692c(b));

n) In connection with an attempt to collect an alleged debt from Plaintiff, providing the identity of Defendant to a third party without such information being expressly requested (§1692b(1) & §1692c(b));

o) Disclosing to a third party the existence of the debt allegedly owed by Plaintiff (§1692b(2) & §1692c(b)); and

p) Communicating with a single third party more than once in connection with an attempt to collect an alleged debt from Plaintiff (§1692b(3) & §1692c(b)).

13.   As a result of the above violations of the FDCPA and RFDCPA Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

14.   Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

A.   Declaratory judgment that Defendant's conduct violated the FDCPA;

B.   Actual damages;

C.   Statutory damages;

D.   Costs and reasonable attorney's fees; and,

E.   For such other and further relief as may be just and proper.

COUNT II: VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT

15.   Plaintiff reincorporates by reference all of the preceding paragraphs.

16.   Further, *§1788.17* of the RFDCPA mandates that every debt

collector collecting or attempting to collect a consumer debt shall comply with

the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to

the remedies in Section 1692k of, Title 15 of the United States Code statutory

regulations contained within the FDCPA, *15 U.S.C. §1692d, and §1692d(5).*

17.   To the extent that Defendant's actions, counted above, violated the

RFDCPA, those actions were done knowingly and willfully.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered

against the Defendant for the following:

    A.   Declaratory judgment that Defendant's conduct
violated the RFDCPA;

    B.   Actual damages;

    C.   Statutory damages for willful and negligent violations;

    D.   Costs and reasonable attorney's fees,

    E.   For such other and further relief as may be just and proper.

///
///
///

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 13th day of July, 2011.

By: /s Todd M. Friedman
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            Attorney for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
JENNIFER DE LEON

DEFENDANTS
BERTRAND MANAGEMENT GROUP, LLC

(b) County of Residence of First Listed Plaintiff   San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Law Offices of Todd M. Friedman, P.C.
369 S. Doheny Dr., #415, Beverly Hills, CA 90211

Attorneys (If Known)

'11 CV 1549 JAH WMC

II. BASIS OF JURISDICTION   (Place an "X" in One Box Only)

- ❑ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ❑ 2 U.S. Government Defendant
- ❑ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff
(For Diversity Cases Only)   and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	❑ 1	❑ 1	Incorporated or Principal Place of Business In This State	❑ 4	❑ 4
Citizen of Another State	❑ 2	❑ 2	Incorporated and Principal Place of Business In Another State	❑ 5	❑ 5
Citizen or Subject of a Foreign Country	❑ 3	❑ 3	Foreign Nation	❑ 6	❑ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ❑ 110 Insurance
- ❑ 120 Marine
- ❑ 130 Miller Act
- ❑ 140 Negotiable Instrument
- ❑ 150 Recovery of Overpayment & Enforcement of Judgment
- ❑ 151 Medicare Act
- ❑ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ❑ 153 Recovery of Overpayment of Veteran's Benefits
- ❑ 160 Stockholders' Suits
- ❑ 190 Other Contract
- ❑ 195 Contract Product Liability
- ❑ 196 Franchise

REAL PROPERTY
- ❑ 210 Land Condemnation
- ❑ 220 Foreclosure
- ❑ 230 Rent Lease & Ejectment
- ❑ 240 Torts to Land
- ❑ 245 Tort Product Liability
- ❑ 290 All Other Real Property

TORTS
PERSONAL INJURY
- ❑ 310 Airplane
- ❑ 315 Airplane Product Liability
- ❑ 320 Assault, Libel & Slander
- ❑ 330 Federal Employers' Liability
- ❑ 340 Marine
- ❑ 345 Marine Product Liability
- ❑ 350 Motor Vehicle
- ❑ 355 Motor Vehicle Product Liability
- ❑ 360 Other Personal Injury

PERSONAL INJURY
- ❑ 362 Personal Injury - Med. Malpractice
- ❑ 365 Personal Injury - Product Liability
- ❑ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❑ 370 Other Fraud
- ❑ 371 Truth in Lending
- ❑ 380 Other Personal Property Damage
- ❑ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❑ 441 Voting
- ❑ 442 Employment
- ❑ 443 Housing/ Accommodations
- ❑ 444 Welfare
- ❑ 445 Amer. w/Disabilities - Employment
- ❑ 446 Amer. w/Disabilities - Other
- ❑ 440 Other Civil Rights

PRISONER PETITIONS
- ❑ 510 Motions to Vacate Sentence
Habeas Corpus:
- ❑ 530 General
- ❑ 535 Death Penalty
- ❑ 540 Mandamus & Other
- ❑ 550 Civil Rights
- ❑ 555 Prison Condition

FORFEITURE/PENALTY
- ❑ 610 Agriculture
- ❑ 620 Other Food & Drug
- ❑ 625 Drug Related Seizure of Property 21 USC 881
- ❑ 630 Liquor Laws
- ❑ 640 R.R. & Truck
- ❑ 650 Airline Regs.
- ❑ 660 Occupational Safety/Health
- ❑ 690 Other

LABOR
- ❑ 710 Fair Labor Standards Act
- ❑ 720 Labor/Mgmt. Relations
- ❑ 730 Labor/Mgmt.Reporting & Disclosure Act
- ❑ 740 Railway Labor Act
- ❑ 790 Other Labor Litigation
- ❑ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ❑ 462 Naturalization Application
- ❑ 463 Habeas Corpus - Alien Detainee
- ❑ 465 Other Immigration Actions

BANKRUPTCY
- ❑ 422 Appeal 28 USC 158
- ❑ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❑ 820 Copyrights
- ❑ 830 Patent
- ❑ 840 Trademark

SOCIAL SECURITY
- ❑ 861 HIA (1395ff)
- ❑ 862 Black Lung (923)
- ❑ 863 DIWC/DIWW (405(g))
- ❑ 864 SSID Title XVI
- ❑ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❑ 870 Taxes (U.S. Plaintiff or Defendant)
- ❑ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❑ 400 State Reapportionment
- ❑ 410 Antitrust
- ❑ 430 Banks and Banking
- ❑ 450 Commerce
- ❑ 460 Deportation
- ❑ 470 Racketeer Influenced and Corrupt Organizations
- ❑ 480 Consumer Credit
- ❑ 490 Cable/Sat TV
- ❑ 810 Selective Service
- ❑ 850 Securities/Commodities/ Exchange
- ❑ 875 Customer Challenge 12 USC 3410
- ☒ 890 Other Statutory Actions
- ❑ 891 Agricultural Acts
- ❑ 892 Economic Stabilization Act
- ❑ 893 Environmental Matters
- ❑ 894 Energy Allocation Act
- ❑ 895 Freedom of Information Act
- ❑ 900 Appeal of Fee Determination Under Equal Access to Justice
- ❑ 950 Constitutionality of State Statutes

V. ORIGIN   (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ❑ 2 Removed from State Court
- ❑ 3 Remanded from Appellate Court
- ❑ 4 Reinstated or Reopened
- ❑ 5 Transferred from another district (specify)
- ❑ 6 Multidistrict Litigation
- ❑ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1692
Brief description of cause:
Violation of the Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:
❑ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: ❑ Yes   ❑ No

VIII. RELATED CASE(S) IF ANY
(See instructions):   JUDGE _____   DOCKET NUMBER _____

DATE
07/13/2011

SIGNATURE OF ATTORNEY OF RECORD
/s/ Todd M. Friedman

FOR OFFICE USE ONLY

RECEIPT # _____   AMOUNT _____   APPLYING IFP _____   JUDGE _____   MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.   (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II.   Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III.   Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV.   Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V.   Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI.   Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity**.   Example: U.S. Civil Statute: 47 USC 553
                                                                        Brief Description: Unauthorized reception of cable service

VII.   Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.